

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

NOTICE OF REMOVAL

Defendant DICKINSON OF SAN ANTONIO, INC. (“Dickinson”) files this Notice of Removal from the 408TH Judicial District Court of Bexar County, Texas to the United States District Court for the Western District of Texas (the “Court”) pursuant to 28 U.S.C. § 1452(a), Federal Rule of Bankruptcy Procedure 9027, and Local Rule of Bankruptcy Procedure 9027(b)(1). Under the Local Rules, this pleading is filed in the Bankruptcy Court.

The case filed in Bexar County is a lawsuit seeking to recover damages and claims against Defendants Dickinson of San Antonio, Inc., Dickinson of Austin, Inc., and Dickinson of Spencer Lane, Inc. d/b/a Career Point College, Academic Financial Solutions, LLC, San Antonio Multi-Media, Inc., Lawrence D. Earle, Carol B. Kendall (the “State Court Action” or “Removed Action”). The State Court Action was filed on October 20, 2016 seeking injunctive relief and damages against the Defendants.

I. BACKGROUND

1. The State Court Action styled Plaintiffs’ Original Petition, Application for Ex Parte Temporary Restraining Order and Request For Disclosure was filed by Plaintiffs on October 20, 2016.

2. Dickinson filed a voluntary petition under Chapter 11 of Title 11 on October 31, 2016 in the Western District of Texas, San Antonio Division (assigned Case No. 16-52492-rbk).

II. BACKGROUND OF THE BANKRUPTCY CASE

3. As of this date, the Debtor remains a Debtor in Possession; no trustee has been requested or appointed. No Official Creditors’ Committee has been appointed.

III. BACKGROUND OF THE STATE COURT ACTION

4. On October 20, 2016, Plaintiffs filed their Original Petition Application for Ex Parte Temporary Restraining Order and Request for Disclosure against Defendants in the 408th Judicial District Court of Bexar County, Texas and was assigned Cause No. 2016-CI-18306.

5. The Plaintiffs were students at Dickinson of San Antonio, Inc. The Debtor became involved in a dispute with the Department of Education, which ultimately cut off the funding to the Debtor, forcing the Debtor to cease operations on October 17, 2016.

6. On October 20, 2016, an Order Granting Plaintiffs Application For Temporary Restraining Order and Temporary Injunction was entered.

7. No Answers have been filed by any Defendant in the lawsuit.

8. No other Orders have been entered in the State Court lawsuit.

IV. THE BANKRUPTCY COURT'S JURISDICTION OVER THE REMOVED ACTION

9. The Removed Action alleges causes of action against the Defendants, including the Debtor, for deceptive trade practices, common law fraud, negligent misrepresentations, negligent hiring, agency, respondent superior breach of contract and conversion. Plaintiffs ask the Court to award actual damages, treble damages, interest, Court costs, attorneys' fees and a TRO against Defendants. The claims adjudication process arises under the Bankruptcy Code, which governs allowance of claims and grants jurisdiction to limit claims. *See* 28 U.S.C. § 1334 (a), the general grant of jurisdiction to the United States District Court. *See specifically* 28 U.S.C. §1334 (b)(2) granting exclusive jurisdiction over all matters arising under title 11.

10. The causes of action include claims against the Estate of the Debtor in a pending bankruptcy, and have potentially adverse effects on the Estate. This effect is the potential for increased claims against the Estate in the event Plaintiffs successfully prosecute the Removed

Action and obtain a judgment. Trying this suit in state court only increases litigation costs, which the Debtor is not in a position to deal with.

**V. JURISDICTION/CORE PROCEEDING/CONSENT
TO ENTRY OF FINAL JUDGMENT**

11. The Court has jurisdiction over the Removed Action under 28 U.S.C. §§ 157(b) and 1334(b). This matter is a core proceeding under 28 U.S.C. § 157(b)(1), and the Bankruptcy Court cannot enter final orders. The presence of co-defendants means that the matter must ultimately be determined by a United States District Court capable of exercising supplementary jurisdiction. *See Walker v. Cadle Co. (In re Walker)*, 51 F. 3rd 562, 570 (Fifth Cir. 1995), holding that United States Bankruptcy Courts may not exercise supplementary jurisdiction.

12. A copy of the enclosed Notification of Removal to the United States Bankruptcy Court for the Western District of Texas has been filed or will be filed as soon as possible with the Texas State Court.

13. Pursuant to 28 U.S.C. §1146(a), a copy of all executed process, pleadings, Orders, a docket sheet and an index of all matters being filed in the State Court Action are attached hereto as Exhibit "A".

Dated: October 31, 2016

Respectfully submitted,

ANGLEY & BANACK, INC.
745 E. Mulberry, Suite 900
San Antonio, TX 78216
Telephone: (210) 736-6600
Facsimile: (210) 735-6889

By: /s/ William R. Davis, Jr.
DAVID S. GRAGG
State Bar No. 08253300
WILLIAM R. DAVIS, JR.
State Bar No. 05565500

ATTORNEYS FOR DICKINSON OF SAN
ANTONIO, INC., DEBTOR/DEFENDANT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 31, 2016, a true and correct copy of the foregoing document was filed electronically with the Court and served electronically upon those parties registered to receive electronic notice via the Court's CM/ECF system, and to counsel for Plaintiffs and Defendants at the addresses listed below through United States Mail, postage prepaid.

Attorneys for Plaintiffs

Mr. Aric J. Garza
Attorney at Law
115 E. Travis St., Suite 1039
San Antonio, TX 78205

Defendants

Mr. Lawrence Drexel Earle
15610 Cloud Top
San Antonio, TX 78248

Ms. Carol Kendall
4903 Casa Oro
San Antonio, TX 78233

Dickinson of San Antonio, Inc.
Serving its Registered Agent, Carol Kendall
4522 Fredericksburg Rd. A-22
San Antonio, TX 78201

Academic Financial Solutions, LLC
Serving its Registered Agent, Carol Kendall
4522 Fredericksburg Rd. A-22
San Antonio, TX 78201

San Antonio Multi-Media, Inc.
Serving its Registered Agent Dickinson of San Antonio
4522 Fredericksburg Rd, A-18
San Antonio, TX 78201

Dickinson of Austin, Inc.
Serving its Registered Agent, Carol Kendall
4522 Fredericksburg Rd. A-22
San Antonio, TX 78201

Dickinson of Spencer Lane, Inc.
Serving its Registered Agent, Carol Kendall
4522 Fredericksburg Rd. A-22
San Antonio, TX 78201

/s/ William R. Davis, Jr.

William R. Davis, Jr.